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October 16, 2007

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BY EMAIL AND MAIL

Randall M. Fox, Esq.
 Special Assistant General Counsel
 Office of the Attorney General
 Medicaid Fraud Control Unit
 120 Broadway - 13th Floor
 New York, New York 10271

Re: The People of the State of New York, et al. v. Merck & Co., Inc., No. 07 Civ. 8434

Dear Mr. Fox:

I write in response to your letter yesterday requesting that Merck withdraw its motion to stay and stipulate to a partial stay which would permit Plaintiffs' planned motion to remand to be filed, briefed and considered in the district court.

As set forth in greater detail in Merck's motion to stay, a stay is appropriate here because this case raises overlapping issues with six similar lawsuits that are currently pending before Judge Fallon in MDL-1657. Plaintiffs' anticipated motion to remand does not change this analysis. Consistent with the purposes of multi-district litigation, and prior practice in the Vioxx MDL, any such motion to remand should be heard by Judge Fallon in the MDL, who already has similar motions pending before him. Indeed, Judge Fallon himself has repeatedly indicated his preference that remand motions be decided in the MDL rather than by district court judges around the country.

By letter dated September 28, 2007, Merck notified the Judicial Panel on Multidistrict Litigation of the pendency of this action, and Merck expects a conditional transfer order regarding this case to be issued shortly. To date, the JPML has rejected each and every objection it has received to the conditional transfer orders in MDL-1657, including cases brought by state attorney generals, sending all such cases to the MDL.

I am attaching a proposed stipulation to stay this case in its entirety. If this stipulation is acceptable to you, please sign it, circulate to Mr. Low-Beer and return it to me. We will file it with the Court.

Very truly yours,

cc: Heidi Wendel, Esq.
 John Low-Beer, Esq.

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Attorneys for Defendant Merck & Co., Inc.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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:
THE PEOPLE OF THE STATE OF NEW YORK, :
by ANDREW M. CUOMO, Attorney General of :
the State of New York, and THE CITY OF NEW :
YORK, :
:
Plaintiffs, :
-against- :
:
MERCK & CO., INC., :
:
Defendant. :
----- x

No.: 07 Civ 8434 (GBD)

**Stipulation and Order to Stay All
Proceedings Pending Transfer
Decision**

IT IS HEREBY STIPULATED AND AGREED by and between the undersigned counsel
for Plaintiffs, The People of The State of New York and The City of New York, and Defendant,
Merck & Co., Inc., that all proceedings in this case be stayed pending a final decision by the
Judicial Panel on Multidistrict Litigation on the transfer of the case pursuant to 28 U.S.C. § 1407
to the Eastern District of Louisiana for consolidated pre-trial proceedings in MDL-1657.

Dated: October __, 2007
New York, New York

ANDREW M. CUOMO
Attorney General of the State of New York

By: _____

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Attorney for Plaintiff The City of New York

SO ORDERED

The Honorable George B. Daniels
United States District Judge